IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18849 of 2004

DATED: 3.1.2007

Between:

The General Manager Incharge,
BHEL, Research Development,
Vikasnagar, Hyderabad-500 093 petitioner

And

The Industrial Tribunal cum Addl Labour Court
M J Road, Hyderabad and another respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 18849 OF 2004

ORAL ORDER:

The present writ petition is filed questioning the order dated 9.9.2004 in I.D. No. 50 of 2002 on the file of the Industrial Tribunal cum Additional Labour Court, Hyderabad, holding the ex-parte enquiry against the second respondent-workman as invalid.

The second respondent herein was employed in the petitioner company as Junior Assistant. He was issued with a charge sheet dated 25.2.1997 alleging unauthorized absence. The said charge sheet was sent to his local address and the address available with the petitioner company, however the same could not be received by the petitioner. Hence, a paper publication was issued on 23.8.1997 advising him to appear for departmental enquiry on 1.9.1997. Since, the second respondent did not respond to the said notice, an ex-parte enquiry was conducted and an enquiry report dated 2.1.1998 was submitted holding the charges leveled against the second respondent as proved. Based on the same, the second respondent was removed from service vide order dated 26.2.1998. Thereafter, the second respondent raised an industrial dispute in I.D. No. 50 of 2002 to set aside the punishment order dated 26.2.1998 on the ground that due to financial and domestic problems he suffered mental depression and left the home and that he was admitted in a hospital at Chennai by Dr

A Chandrasekhar Rao and underwent treatment till 9.2.2001. That on recovering from the sickness his whereabouts were communicated to his family members and he was brought back to Hyderabad AND underwent treatment at Hyderabad with Dr.S.S.R. Murthy, Neuro Surgeon. On consideration of the matter, the labour Court by its order dated 9th September, 2004 held the ex-parte enquiry as invalid. Questioning the said order, management filed the present writ petition.

Learned counsel for petitioner company submitted that after following the due procedure contemplated under law, an ex-parte enquiry was conducted against the workman and the Labour Court without considering the said facts and without recording any reasons merely held that the ex-parte enquiry conducted against the second respondent-workman is invalid and sought for interference of this Court.

On the other hand the learned counsel for second respondent-workman submitted that due to mental depression the petitioner has left his house and his whereabouts were not known to his family members and keeping in view the said facts, the Labour Court rightly held that the ex-parte enquiry against the workman is invalid.

Heard the learned counsel for petitioner and learned counsel for second respondent and perused the material available on record including the order under challenge.

The Labour Court, after recording the contentions of both sides, held that justice demands that the ex-parte enquiry held against the petitioner (second respondent) has to be held as invalid. The operative portion reads as under;

> "Hence I am of the view justice demands that the ex-parte enquiry held against the petitioner has to be held as invalid. In the light of the above findings the point is answered that the enquiry held against the petitioner is invalid."

A perusal of the impugned order indicates that the Labour Court has not recorded its reasons for holding the enquiry as invalid, except saying that justice demands ex-parte enquiry to be held as invalid. The Labour Court ought to have recorded its reasons for arriving at a conclusion that the ex-parte enquiry held against the second respondent-workman is invalid. Hence, this Court is of the considered opinion that the impugned order of the Labour Court is liable to be set aside and the matter requires reconsideration on merits.

Accordingly, the impugned order dated 9.9.2004 is set aside and the Labour Court is directed to reconsider the matter afresh on merits and pass appropriate orders in accordance with law. No costs.

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N.V.RAMANA,J

DATE: 3.1.2007

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